

Application No. 08/819,669

Docket No.: NY-LUD 5253-US5-DIV

Amendment dated March 26, 2009

Reply to Office Action of March 20, 2009

REMARKS

Claims 192-195 are added to claim specific disclosure set forth in the specification. Each recited sequence is disclosed and discussed in the application as filed.

The Office Action of March 20, 2009 set forth 2 new grounds of rejection. They are discussed below.

One is a double patenting rejection in view of U.S. Patent No. 7,495,074. This is addressed by the attached Terminal Disclaimer.

The Examiner also issued an obvious double patenting rejection over U.S. Patent No. 5,843,448. The rationale for this is that there is some commonality of inventorship, albeit differences in ownership. The Examiner cites to MPEP 804 in support, Chart II-B.

It is submitted that the invention set forth and claimed in the '448 patent resulted from a joint research collaboration between the two assignees of the '448 patent. Attached hereto, on a separate sheet of paper (37 C.F.R. § 1.4(c)) is a statement to this effect.

Pursuant to MPEP 804.03, a terminal disclaimer is thus appropriate and such is submitted.

It is believed the rejections are overcome hereby.

* * *

MAR 26 2009

Application No. 08/819,669

Docket No.: NY-LUD 5253-US5-DIV

Amendment dated March 26, 2009

Reply to Office Action of March 20, 2009

The Commissioner is hereby authorized to charge the credit card for the terminal disclaimer fees. Also, the Commissioner is hereby authorized to deduct any additional fees or credit any overpayment to our Deposit Account No. 50-0624, under Order No. NY-LUD 5253-US5-DIV (09885911) from which the undersigned is authorized to draw.

Dated: March 26, 2009

Respectfully submitted,

By 

Norman D. Hanson

Registration No.: 30,946

FULBRIGHT & JAWORSKI L.L.P.

666 Fifth Avenue

New York, New York 10103

(212) 318-3000

(212) 318-3400 (Fax)

Attorney for Applicant

Attachments: (2) Terminal Disclaimers